

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 23-10385-lgb

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6 In the Matter of:

7
8 TV AZTECA, S.A.B. DE C.V.,

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10 Debtor.

11 - - - - - x

12 United States Bankruptcy Court

13 One Bowling Green

14 New York, NY 10004

15
16 August 15, 2023

17 10:00 AM

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21 B E F O R E :

22 HON LISA G. BECKERMAN

23 U.S. BANKRUPTCY JUDGE

24
25 ECRO: F. FERGUSON

1 HEARING re Status Conference

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25 Transcribed by: Sonya Ledanski Hyde

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24 BY: CURTIS PLAZA

1 P R O C E E D I N G S

2 THE COURT: Good morning. This is Judge
3 Beckerman. I'm going to go ahead and call the case. And
4 when I do, I ask the attorneys to put your appearances on
5 the record and also to please identify yourself when you're
6 speaking for the record. Case Number 23-10385, T.V. Azteca,
7 S.A.B, de C.D. May I have appearances of counsel, please.

8 MR. CLAREMAN: Good morning, Your Honor. Billy
9 Clareman from Paul Weiss on behalf of the alleged debtors.
10 I'm also joined in the virtual courtroom by several of my
11 partners: Jay Cohen, Kelley Cornish, Sean Mitchell, and
12 Elizabeth McColm.

13 THE COURT: Thank you.

14 MR. QURESHI: Good morning, Your Honor, Abid
15 Qureshi, Akin Gump Strauss Hauer and Feld on behalf of the
16 petitioning creditors and also co-counsel to Bank of New
17 York as indentured trustee. And with me are my partners,
18 Michael Stamer and Sarah Schultz.

19 THE COURT: Thank you, Mr. Qureshi.

20 MR. RUDEWICZ: Good morning, Your Honor, Daniel
21 Rudewicz on behalf of the United States Trustee.

22 THE COURT: Okay.

23 MR. PLAZA: Good -- go ahead.

24 MS. SKIPSEY: Katherine Boy Skipsey, joined by
25 Michael Driscoll, on behalf of Diamond Films.

1 THE COURT: Thank you.

2 MR. PLAZA: And good morning, Your Honor, Curtis
3 Plaza from Riker Danzig on behalf of the Bank of New York as
4 indentured trustee.

5 THE COURT: Thank you, Mr. Plaza. All right. Any
6 other appearances?

7 Okay. So today we have a status conference, I
8 think, to talk about our upcoming multiday hearing beginning
9 on the 28th of August. I had a few things for you all and
10 then I'm sure you have a number of things for me as well.

11 So on my notes, I have that I'm expecting. I
12 think you all know what my rules are, that I take direct
13 testimony in declarations, which been submitted, of course,
14 already by --not counting the US lawyers -- four witnesses,
15 two from each side it looked like to me. So the first thing
16 I wanted to ask is, was I missing anybody that I should be
17 expecting that will be showing up as a witness? And if, you
18 know, what else I was looking for from each side. So I
19 guess I'll have to ask the movant that question first.

20 MR. CLAREMAN: Yes, Your Honor. And actually, I
21 think I can report more broadly on behalf of both the
22 alleged debtors and the petitioning creditors because this
23 has been a subject about which we've had a number of
24 discussions. Recognizing that your individual practices
25 call for direct examinations by written declaration or

1 proffer, we've submitted a number of declarations as you've
2 just noted.

3 We have reached an agreement with the petitioning
4 creditors to submit two further declarations. There will be
5 no additional witnesses at the hearing. However, we have
6 agreed with the petitioning creditors that with respect to
7 the experts -- as you know, both sides have submitted expert
8 declarations from experts on Mexican insolvency law -- the
9 petitioning creditors would serve an additional expert
10 report, declaration, which was sent to us yesterday. That
11 declaration is not supposed to offer any new opinions but
12 will merely respond to matters that were opined on in
13 Professor Mejan's last declaration.

14 We have further agreed that the alleged debtor's
15 expert, Professor Mejan will be permitted to submit one
16 further responsive declaration subject to the same rules.
17 That will be served by noon on the 21st, so this coming
18 Monday.

19 We've also agreed that the experts will be subject
20 to depositions in New York. That's taking place next week.
21 But there will be no further direct testimony from any
22 witness. There will not be any live direct or written
23 direct. The parties will rest on the declarations.

24 I mentioned that the last in time declaration was
25 served on us yesterday. That hasn't been filed with the

1 Court. We are happy to agree to file these declarations as
2 they come in or provide them simultaneously with the
3 exhibits that we're planning to prepare and submit to the
4 Court on August 23rd. We're happy to take direction from
5 Your Honor in terms of what you would prefer. If you'd
6 rather see them in real time as they come in, we're happy to
7 accommodate that in any manner. But that is the agreement
8 of the parties with respect to direct testimony for purposes
9 of the hearing, if that's acceptable to you.

10 THE COURT: And Mr. Qureshi, I just wanted to give
11 you an opportunity to respond if there's anything additional
12 you wanted to add or clarify.

13 MR. QURESHI: No, nothing to add, Your Honor. Mr.
14 Clareman recited correctly the agreement that we reached.
15 So we, again, we're, we're happy to file the report on the
16 docket now, the one that we served yesterday, or wait until
17 exhibits are exchanged, whatever Your Honor prefers.

18 THE COURT: Okay. Well they're certainly going to
19 have to be filed on the docket. The question, I guess, is
20 just now or later in terms of the declaration. So I'll just
21 say that.

22 I'm going to guess maybe we should talk about the
23 rest of what you're intending to do just so we have a, I
24 have a complete picture before I tell you what I would like
25 to do. So I guess that takes me to, I guess, my next topic,

1 that was witnesses. I guess my next topic was going to be
2 exhibits. I didn't know, you know, I know the parties have
3 been in discussion about the exhibits. I know they've been
4 conferring. I definitely heard that through my law clerk.
5 But I just wondered where things stood. If there were any,
6 I guess, exhibits where there's going to be issues about
7 admissibility, if there is going to be any motions in
8 limine, what I should be expecting?

9 MR. CLAREMAN: Sure. So I'm happy to take that
10 one. So the parties have exchanged exhibit lists. We
11 exchanged them yesterday. We intend to work together to
12 ultimately submit a set of joint proposed exhibits to the
13 Court by August 23rd, which is five days before the hearing.
14 Again, we were looking to your individual practices for that
15 deadline with one exception, which is demonstratives, which
16 I will come back to.

17 I don't anticipate at this time that there will be
18 disputes or motions in limine with respect to the exhibits.
19 We did just exchange exhibits last night.

20 THE COURT: I understand.

21 MR. CLAREMAN: So I suppose that could change, but
22 at this time, I'm not expecting there to be any motion
23 practice around that.

24 THE COURT: Okay. Well, from my experience, it's
25 not -- most people tend to agree on most things, but

1 sometimes there's one or two things that don't end up being
2 agreed to. So it seems like it's too early to know that.
3 That's all right. And that's fine. I actually generally
4 like to actually look through my exhibit book before my
5 trial. So I tend to do it myself like, right, like in the,
6 maybe the end of the week before. So your timing is okay
7 from my perspective for the exhibits because I, that's when
8 I would probably sit down at the end of that week and look
9 through them just to familiarize myself. And, obviously, if
10 there are any issues about admissibility, they need to be
11 flagged for me by then so I know what to expect.

12 And if there's anything that people feel they need
13 to brief about that, then they need to have done that too so
14 that I have it all in front of me when I sit down and just
15 start looking at it. But that's fine. I normally wouldn't
16 start till about that time anyway. So that's totally fine
17 timing-wise for me.

18 Okay, so next question is I know obviously the
19 witnesses that we've been speaking about are going to be
20 here in person and you all will be here in person, which I,
21 I'm happy to hear. My question for you, which I just wanted
22 to make sure I was clear and everybody understands that
23 they're going to have to be here in person and that you're
24 not expecting anybody to be on by Zoom. And when I say
25 anyone, I don't just mean witnesses. I just mean anyone

1 because if there's anyone that does intend to be on by Zoom
2 or we need to have on Zoom, I have to have my courtroom set
3 up for hybrid hearings, which is not a problem. I've done a
4 number of them. Even if all the witnesses are here, I've
5 still sometimes had one or two counsel or somebody else who
6 couldn't be here. And given that we're talking about people
7 who many of which reside in Mexico, I thought I would ask
8 about this so that we would know what we needed to do with
9 my courtroom in advance. Our IT department would probably
10 appreciate that from me. So that's why I'm asking about
11 that.

12 MR. CLAREMAN: Yeah. And I appreciate that, Your
13 Honor. We certainly did intend for all of the actual
14 witnesses to be present in the courtroom. We had not
15 previously discussed a hybrid setup, at least on our end. I
16 think that's something that we can discuss and we'll get
17 back to your chambers promptly if it's something that we
18 anticipate. It's not, it's not something that we had
19 expected to do, but since Your Honor has raised it, I would
20 like a chance to discuss it.

21 THE COURT: Only that I don't want somebody to
22 feel that their client can't, or some counsel who's lesser,
23 less, sorry, less than handling all the issues in court and
24 doesn't need to be in court perhaps. Sometimes there are
25 reasons that people need to do that, so I worry if we can be

1 accommodating. So I just needed to know so that how we set
2 up our courtroom is a little different when that happens.
3 That's why. So that's my question. All right, you can get
4 back to me. I would actually appreciate it if you could get
5 back to us by no later than Monday about that. Certainly,
6 end of the week would be great, but certainly no later than
7 a week in advance because we do need to give our IT
8 department a bit of, you know, a bit of advance notice on
9 that one.

10 MR. CLAREMAN: Yes, no problem.

11 THE COURT: Okay. No worries. Again, my bench is
12 set up for that anyway. I mean, because I, as I said, I've
13 had them so it's not, it's just a function of what they do
14 with some other equipment in my courtroom.

15 Okay, next thing. I know you all have asked for
16 certain accommodations that we are granting here and I just
17 wanted to make sure that we went over them with the --
18 because some of them involve, of course, access for you all
19 for lawyers and clients and witnesses here in court. So we
20 have reserved two breakout rooms for both hearing dates.
21 One will be on our fifth floor and one is on the floor we're
22 on, on the second floor. And you can access your break
23 rooms on both hearing dates between 8:30 and 6. You can
24 bring in your own printer to the break, you know, the
25 breakout room if you wish. You can bring food and drink,

1 but you have to clean up and leave the rooms in the
2 condition that they found them. I guess so that I don't
3 hear from the guy who I see every night when he comes to
4 clean our chambers about how messed up things were from the
5 trial. On -- if you all want, you can access the breakout
6 rooms on the 25th, which is the Friday before, to set up or
7 drop off equipment. Our automation team can also be
8 available on the 25th in case each of the parties would like
9 to test their equipment either there or in the courtroom.
10 And you can just call my law clerk, Griselda, to reach out
11 to her, Cabrera, about that and she can coordinate with our
12 IT staff.

13 Each of the attorneys will be permitted to bring
14 in their phone and laptop. You have to give us, by Monday
15 the 21st, an itemized list of all the equipment being
16 brought into the courtroom, any phones and computers that
17 are being brought in by non-attorneys so we know what to
18 expect. That's because we have to deal with the court
19 security in addition to the IT department about those
20 things, just so they may know that people are allowed to
21 bring things in. I'm generally lenient about that. As long
22 as we give people notice, no problem. I just noticed --
23 note that if, as you all know, all your ringers will have to
24 be off during trial. So I'm just warning you all.

25 Okay, I guess in connection with that, that's what

1 our arrangements have been for technology. And in terms of
2 your breakout rooms, were there any questions you had about
3 that?

4 MR. QURESHI: Yeah, so, Your Honor, again, Abid
5 Qureshi on behalf of the petitioning creditors. Just with
6 respect to -- well, maybe I can step back. So the parties
7 have had a very productive meet-and-confer process in terms
8 of at least how we thought things would proceed subject, of
9 course, to Your Honor's preferences.

10 I think it is our expectation there will probably
11 just be two live witnesses, the two competing experts on
12 Mexican law. We don't definitively know that yet because
13 depositions are coming up, but that appears to be likely.
14 We have also worked and are continuing to work towards
15 submitting to the Court joint stipulated facts so that Your
16 Honor will be clear about what, what is and what is not in
17 dispute.

18 I do have one question with respect to logistics.
19 So certainly on behalf of the petition creditors, it is our
20 intention at closing to, to prepare a number of slides. And
21 we're perfectly happy just handing those up to Your Honor.
22 We don't need the courtroom technology for that. If Your
23 Honor has a preference, we're certainly happy to put things
24 up on a screen as well, whatever the Court's preference is.
25 And, likewise, for witnesses, there may be a few

1 demonstrative exhibits. Same thing, happy to do it old
2 school and just hand up copies or project onto a screen,
3 whatever the Court's preference is.

4 THE COURT: Okay. Well, Mr. Qureshi, we
5 definitely -- I've seen it done each way in front of me.
6 And as long as I actually have them, I'm fine with them
7 however you would like to do it. So that's fine. We
8 obviously do need to let our IT team know what the party is
9 intending to do because that does matter also. I mean it's
10 less, probably less of an issue if the courtroom has already
11 been set up for hybrid, because we'll have a screen. If it
12 hasn't, we still need to have a screen. And I believe you
13 all will have to bring in your own laptops to do that.
14 That's my recollection about that. I'm not sure. If I'm
15 saying that wrong, my law clerk will probably correct me.
16 So I think I'm open to either way. I do sometimes find that
17 that's helpful for closing argument myself just in terms of
18 actually seeing slides. In some way, I find those to be
19 useful, but I -- probably you all know this about me anyway,
20 but I read everything. So if I -- if it's been submitted to
21 me already, I've read it, and if not, I'll read it when you
22 hand it to me. So that's, that's, that's fine. I'll leave
23 that to you all, but you'll need to let us know. Again, I
24 think that's probably another thing we're going to have to
25 tell our tech people about, you know, by next Monday so that

1 they have time to know what's happening. And if you all are
2 planning on using that for closing argument, you might want
3 to just test it in the courtroom, which is fine too. Again,
4 on that 25th, if somebody wants to come by and just run,
5 don't necessarily have to have your deck just to see if the
6 computer works with everything that's fine too. Just let us
7 know. We're, you know, no problem at all.

8 I should also note while we're on this subject,
9 when you were saying you're only expecting to have two
10 witnesses in person, what does that mean? Does that mean no
11 one will be wanting to cross-examine the other two
12 declarants and you all have stipulated to facts relating to
13 them or is it something else I'm missing?

14 MR. QURESHI: So, Your Honor, I'm happy to answer
15 that. I think the expectation is that everything in the
16 other declarations will be stipulated to. And that the, the
17 two witnesses, the two experts that will appear live, will
18 be subject to cross-examination. Again, we're, we're not
19 quite there yet with respect to one fact witness from the
20 alleged debtors whose deposition is being taken next week.
21 But if, if it turns out that there is any remaining disputed
22 issue after that deposition, I expect any need for live
23 testimony would be extremely limited and hopefully we can
24 resolve it by using a deposition transcript.

25 THE COURT: Okay. So I guess I'll just ask this

1 question because I guess that's what comes to mind first for
2 me. So there won't be -- what you're telling me is that you
3 think, again, not holding you to it, but you think you will
4 have worked out any disputes that relate to, I guess, the
5 non -- the arguments that don't involve issues of Mexican
6 law. So no one will have any disputes about, for example,
7 what's going on or the other litigation that's been going on
8 with the parties. Unless it's in Mexico or involves Mexican
9 law, the facts that are in dispute in other litigation, for
10 example, that isn't taking place in Mexico. All those will
11 be stipulated to.

12 MR. QURESHI: So, Your Honor -- and I'm certainly
13 not speaking on behalf of Diamond Films and their
14 litigation, I will defer to them from that. But yes, it is
15 our expectation that with respect to the petitioning
16 creditors and the alleged debtors, we will be able to
17 stipulate by and large to, to I hope all of the facts.
18 Again, we have to iron that out. We've exchanged draft
19 stipulations of facts. So we're still working through it.
20 But my hope is that is, that is where we will end up to.

21 To be clear with respect to the litigation that is
22 pending in Mexico, there most certainly is a dispute between
23 the two experts on Mexican law as to the import of that, of
24 course, and that will be the subject of testimony before
25 Your Honor. But otherwise, we're, we're working towards

1 having everything stipulated and we'll, we'll see if we get
2 there.

3 THE COURT: Okay. All right. That's helpful to
4 know, fine. I guess since you brought up Diamond Films, I
5 might ask their counsel for a second. I know you filed a
6 reservation of rights, but obviously, we're now heading into
7 hearing. Are you, what are you intending to, you know, to
8 present at hearing? Just argument with respect to the
9 motion?

10 MS. SKIPSEY: Your Honor, we're still determining
11 whether we're going to take a position in the motion. We
12 reached a deal with the alleged debtors on discovery, access
13 to their discovery yesterday. So we're evaluating the
14 evidence and in the coming days, we'll let the parties know
15 if we're going to participate in the hearing and to what
16 extent and what position we're going to take.

17 THE COURT: Okay. Well, some things though, I
18 think that would be a problem with respect to. So we're
19 getting to be -- there's depositions happening next week and
20 I think we pretty much know like that we have four witnesses
21 that are coming to potentially testify, maybe only two of
22 which will be testifying as people work everything out. But
23 we sort of know we're going to have between four and two
24 witnesses and who they are.

25 So I think if you were planning on calling any

1 witnesses, that would have to be made very clear like now,
2 so people would have an opportunity to actually depose the
3 witnesses and you'd have to submit declarations. Even my
4 rules require that, you know, obviously, no later than a
5 specific point. Obviously, we're not there. But clearly,
6 if you just wish to take a position on the record and
7 participate in argument, that's one thing. But if you're
8 planning on doing something else, I think you're going to
9 need to tell people like now pretty much.

10 MS. SKIPSEY: Yes, Your Honor. We don't foresee
11 taking full participation in the trial or bringing up
12 witnesses. But we'll let you know if that changes. For
13 now, it will be just state our position in the record.

14 THE COURT: Okay. All right. That's fine. Okay.
15 Well that at least answers my question about that. So I
16 guess I was assuming that the process for the hearing would
17 go that we'll have if anybody wants to present certainly
18 opening argument, then our witnesses -- it sounds like we
19 might just have two -- and then closing argument. And I,
20 obviously, it sounds like we might have that with involving
21 some technology, demonstratives, et cetera, which is fine.

22 I should say for the parties, it sounds like that
23 would certainly be doable, especially if it's two witnesses,
24 in two days. No problem. With four, still, hopefully. If
25 -- just for the record, I have not put anything else on my

1 calendar on Wednesday. It is wide open in case. I've had
2 too many experiences with this where I then needed more
3 time. So I prefer to sometimes allow myself too much time.
4 But that's for the record. You all know that. I do have a
5 very full calendar on Thursday, but I have zero on Wednesday
6 on purpose, and won't be scheduling.

7 Okay. I'm just thinking. Give me one second to
8 look at my notes and figure out what else I wanted to ask
9 you here. Okay, so we covered exhibits. We covered
10 witnesses. We covered technology. You're going to get back
11 to me on hybrid. Oh, I don't think I got back to you on
12 your declarations. So, yeah, I would probably like to read
13 them when they're, when they're, you know, delivered to the
14 other party. If you want to wait and file them at the time
15 you file the, you know, file them when you hand me exhibits,
16 you know, when you deliver exhibits, that's fine. But you
17 are going to actually have to file the declarations on the
18 record. Obviously, not the exhibits but the declaration.
19 So I just leave it to you all as to what you want to do
20 about that. I'm not -- I would like them filed once they're
21 completed, both of them for sure, but I don't feel that you
22 have to file the one today if that's not what you would
23 prefer to do. It could all be done as you all wish, but I
24 would like to see it. So I would appreciate that. And
25 obviously, I'll see the other one when you deliver that

1 along with the exhibits, I'm guessing, based on what you
2 said.

3 MR. CLAREMAN: Yes, of course, Your Honor.

4 THE COURT: Okay. All right. I guess I'll ask,
5 Did you have any other questions for me?

6 MR. CLAREMAN: Yes. Billy Clareman, again, on
7 behalf of the alleged debtors. On the subject of openings
8 and closings, there was, there were a few items that we had
9 discussed with the petitioning creditors.

10 The first is we had agreed that subject to Your
11 Honor's views, that we would be limited to 15 minutes per
12 side for openings as an example.

13 THE COURT: That's fine.

14 MR. CLAREMAN: And the other agreement that we had
15 reached was, again, subject to Your Honor's views, that we,
16 given the potential here that there would be, you know, two
17 15-minute openings followed by potentially only two
18 witnesses with no direct examinations, you know, hope
19 springs eternal and we may actually conclude early on day
20 one. And if that happens, we would propose rather than
21 rolling directly into closing, to reconvene the next day.

22 THE COURT: Fine, you have my entire time reserved
23 for both days plus my entire time open for the next day. So
24 whatever you all want to do, I'm completely flexible. So
25 that's fine. If you want to wait to have the next day when

1 you got there and have closing argument the next day, that's
2 fine. If you tell me, no, you'd rather do it Wednesday,
3 that's also okay. You all can have my, you know, unlimited
4 time calendar there.

5 MR. CLAREMAN: Okay. We certainly appreciate
6 that, Your Honor, and we'll discuss that further in case
7 taking advantage of the third day is something that's
8 attractive or even viable to folks. We had discussed a sort
9 of soft limit of an hour for closing arguments each side.
10 Obviously, if the Court has questions that take that beyond
11 an hour, then, of course, it would, you know, that can
12 happen and we all recognize that. But in terms of what we
13 would be planning for, that was what we had discussed
14 yesterday with the petitioning creditors if that's ok with
15 the Court.

16 THE COURT: It is. And you reminded me of
17 something actually while you were saying that. So I'm just
18 going to jump in. It doesn't have to do with what you were
19 talking about, but it does have to do with the witnesses.

20 So I don't think I mentioned usually when I ask my
21 questions. So I don't think any of you have had trials in
22 front of me before. So I usually ask my questions after
23 cross-examination by the opposing parties, but before
24 redirect, so that if I raise issues in my questions that you
25 need to address with the witness, you have an opportunity to

1 do that. I try not to interrupt the witness during your
2 examinations or during the other party's cross. I just --
3 but I will probably, given the nature of at least the two
4 witnesses we're talking about, I'm sure I will have some
5 questions. I'm sure you all know this too, but I'll just
6 say, of course, we do our own preparation here. And so I'll
7 certainly, we have certainly already looked at some issues
8 involving, you know, Mexican law, just, and you all know, I
9 practiced. I had some experience with concurso, so it's not
10 completely unfamiliar to me. Obviously neither is the
11 UNCITRAL Model Law or -- obviously, the Mexican version is
12 interesting. So we -- I certainly -- you know, we will, I
13 will certainly be prepared to have some questions which
14 wouldn't probably surprise you. So that's when I will ask
15 them, just so you know.

16 MR. CLAREMAN: Excellent. Thank you, Your Honor.

17 THE COURT: And the witnesses won't be surprised,
18 which I think is better.

19 MR. CLAREMAN: Yes.

20 THE COURT: Okay. And then also, before I let you
21 go back, sorry, to what you're asking me, I have one other
22 thing that came up with respect to the witnesses that I
23 didn't ask, which is all of the witnesses, the four
24 witnesses that submitted declarations, are -- obviously,
25 three of them are Mexican attorneys. Obviously they all

1 reside in Mexico. Is there going to be any need for an
2 interpreter? My guess was that probably based on that the
3 parties to the experts do speak English, but I don't know.
4 And I have had, in some of my other cases, where I've had
5 expert legal testimony, sometimes people still have an issue
6 with that. So I just wanted to ask in advance about that.
7 We don't, our court doesn't generally provide for them just
8 so you know, so you'd have to have your own if that's
9 something that's going to be required. There's actually a
10 list that the district court keeps of approved interpreters.
11 It doesn't necessarily have to be that person, but there are
12 some guidelines that we're supposed to follow in our court
13 relating to that. So I thought I would ask, sorry, while I
14 was thinking about that. Again, Mr. Clareman, sorry for
15 interrupting you.

16 MR. CLAREMAN: No problem at all, Your Honor. We
17 do not anticipate that the experts would require an
18 interpreter. If Mr. Rodriguez, T.V. Azteca's CEO, who
19 submitted a declaration, if he is required to testify live,
20 we would expect to have an interpreter. We are, we expect
21 to have an interpreter present during his deposition and it
22 will be conducted through an interpreter. And so we will,
23 of course, consult the, you know, relevant requirements and
24 the district court's list and make the necessary
25 arrangements for an interpreter if it does turn out that we

1 will need live testimony from Mr. Rodriguez in the
2 courtroom.

3 THE COURT: Okay. I think you'll need to, after
4 the depositions, let us know what you're planning to do with
5 him and whether you're going to be also bringing an
6 interpreter. There's obviously some -- part of the
7 guidelines actually have to do with, which probably won't
8 surprise you, with the nature of, usually the need to have
9 sometimes more than one interpreter, especially when
10 someone's going to, depending on how long the testimony is
11 going to be, and how that works for purposes of the
12 guidelines for the district report. So you should probably
13 take a look at that, but you'll need to let us know in
14 advance just so I can let both our IT staff because they
15 would, they usually want to know if we're going to have
16 other parties, and let security, of course, know if we're
17 going to have someone coming in because they'll need to know
18 that too. So I just wanted to know. I'm sure I'll get
19 asked that question by somebody. So I figured I'd ask it.

20 Okay, sorry, Mr. Clareman. Now I'm going to let
21 you continue asking questions to me, my apologies.

22 MR. CLAREMAN: No, no problem at all, Your Honor.
23 I'm just looking at my list. I believe I only have two
24 other items which are very logistical. So one is there are
25 exhibits which have been filed under seal and which have

1 been marked as confidential or highly confidential. Many of
2 those concern current, you know, commercial arrangements
3 with third parties. And we intend to continue to protect
4 the confidentiality of the commercial terms of those
5 agreements. We've also, in connection with producing them,
6 provided notice to third parties and received requests from
7 third parties to maintain confidentiality. To the extent --
8 so we've had some discussions with the petitioning creditors
9 about how we might approach addressing in open court
10 exhibits which are filed under seal. We certainly would
11 welcome any feedback from Your Honor on how to do that. We
12 have some ideas, but if Your Honor --

13 THE COURT: Sure. We have done these in a number
14 of our trials here before. So I will just say the way that
15 I have typically seen this done, but I'm obviously open to
16 other things, but this has worked with our ECRO and the
17 court system is we have to -- when we're getting to a
18 discussion about something that's a confidential document,
19 we have to indicate on the record that it is a confidential
20 document. That has to be marked in the record for that.
21 That obviously won't be in the transcript when the
22 transcript is filed on the record. It will obviously be
23 available for parties that are there. Only parties who are
24 in the courtroom, who are subject to your protective order,
25 would be able to stay in the courtroom when that's being

1 discussed. And that would also be true for people online.
2 So we have had the fun of kicking people offline and putting
3 them back online, kicking them offline, putting them back
4 online. So it does happen and it is doable. Same thing
5 with parties in the courtroom. I've had people who came to
6 observe trials because they had interest in it, but they
7 weren't parties to the protective orders. We've had to,
8 we've had to announce that we're getting into confidential
9 information and usually the counsel would let me know that
10 they're getting there and then we would, I would make an
11 announcement. We would make people have to leave. I would
12 have a list of people who were subject to the, you know, who
13 weren't problematic in the courtroom. We would make sure
14 that the only people that were still in the courtroom were
15 the ones that were subject to the protective order and
16 covered by it and then we would get into the discussion. So
17 I think that's how that would work. I've seen it work for
18 us and I know that works for the court transcript purposes.
19 And then we would go off, notify when we're going back off
20 the confidential part on the record again, allow people to
21 come back in. If someone's on Zoom, allow them to come back
22 in, and then proceed from there. It's disruptive, but it
23 does work and it does work for purposes of the transcript.
24 I've had a few, a few trials where this has been an issue
25 actually.

1 MR. CLAREMAN: Okay. Well that, I think, from our
2 perspective, is doable. Another -- certainly, and if that's
3 the Court's preference, then that's how we will proceed.
4 One potential approach that we had discussed with the
5 petitioning creditors yesterday would be to the extent there
6 are, for example, stipulated facts which concern
7 confidential information, we can also potentially, at least
8 at times, avoid the disruption by simply referring to the
9 confidential filed under seal version of stipulated facts or
10 evidence without actually describing the terms out loud in
11 court. So there may be some sort of workarounds that the
12 parties can develop that can avoid the requirement that the
13 court will be cleared if that becomes an issue.

14 THE COURT: That's fine. I mean some of it is
15 going to be what you're doing with the witnesses, how these
16 are coming up, whether they're coming up in argument,
17 whether they're coming up, you know, when you're dealing
18 with cross-examination whether it's, for example, part of a
19 particular document, maybe not even always the whole
20 document that's the issue. So without knowing what you're,
21 what's going to be left once you figure out what witnesses
22 are actually going to be testifying and what documents
23 you're stipulating to or not, and which ones contain that
24 information, it will be an issue. Obviously, I have my
25 sets, so that's fine. And, of course, myself and my law

1 clerks have looked at the under seal documents. But that's
2 it. And we keep them in physical form. We don't, for the
3 record, we don't scan them into our system. We don't put
4 them anywhere because we are supposed to destroy them after
5 my rulings. And we do when I finish. So that's what
6 happens. And, ironically, I recently had something come up
7 where I had ruled on something and then something -- not
8 exactly the same issue, but something else came up where it
9 would have been helpful for me to have a document that I
10 have actually had and was the subject of some testimony in
11 court and under confidentiality. And I had destroyed it and
12 our clerk's office had also destroyed it because it had been
13 more than six months. And so we had to actually ask for it
14 again, which was pretty funny. But that's better that we do
15 that. And you all know we actually comply with our rules
16 than otherwise.

17 MR. CLAREMAN: I appreciate that. Okay. I think
18 the last two items on my list are one we actually had spoken
19 about. We've spoken a few times about the party's efforts
20 to arrive at some set of joint stipulated facts. We
21 currently have depositions that are scheduled to run through
22 August 24th, which is the Thursday before the hearing. And
23 so we had discussed submitting those to the Court on Friday,
24 August 25th. That's obviously very close to the hearing at
25 that time.

1 THE COURT: At what time.

2 MR. CLAREMAN: We can do it as early as Your Honor
3 would like to see it. So I think --

4 THE COURT: So, I am going to be in my -- I don't
5 normally, I guess I don't know if I should say this. Maybe
6 I shouldn't. But I normally am -- I'm normally in my
7 chambers many days and Fridays we don't hold hearings. So
8 sometimes I am not in my chambers and I am at home. But
9 when I have trial, I usually am in my chambers. So it
10 probably would be fine if we could get it first thing in the
11 morning, like by 10. It probably would be not so fine if
12 you gave it to me at five o'clock in the afternoon.

13 MR. CLAREMAN: Okay. I am sure that we can agree
14 on 10 a.m. in that case.

15 THE COURT: All right.

16 MR. QURESHI: Indeed we can.

17 MR. CLAREMAN: Okay, the last housekeeping item
18 is -- and we advised the petitioning creditors counsel
19 yesterday that we intended to do this, but I'm going to be
20 filing a corrected declaration. It's the Clareman reply
21 declaration. One of the documents that was attached to that
22 declaration is a loan document. It was not the operative
23 version of the document, the currently operative version of
24 the document. And so we are going to file a corrected
25 declaration that attaches the operative version and a

1 translation of the operative version, which was also an
2 exhibit to my declaration.

3 THE COURT: Okay. Thank you. All right. Was
4 there anything else, Mr. Clareman, you wanted to raise with
5 me? If not, I'll turn it over to Mr. Qureshi.

6 MR. CLAREMAN: That exhausts my list. Thank you
7 for the time, Your Honor.

8 THE COURT: Okay.

9 MR. QURESHI: Your Honor, just one question for
10 me, which is, and I have not yet discussed this with Mr.
11 Clareman. I'm not sure what the timing is on official
12 transcripts, but if it would help the Court, in light of the
13 fact that we are going to have witnesses on one day and an
14 argument on the other day, we're certainly happy to bring in
15 a court reporter and get Your Honor a real-time unofficial
16 transcript at the conclusion of the first day.

17 THE COURT: I leave that all to you. I will, I
18 obviously will -- it's obviously great to see real time, but
19 I think that's probably going to be really up to you all as
20 to what you'd like to do. It's not something that I have
21 seen typically happen, particularly, and I don't mean this
22 with any disrespect to you all, but when we're talking about
23 a case that got filed in March and we're having a trial in
24 August, not 30 days after or something. So I don't, I don't
25 mean this disrespectfully either because I clearly

1 understand people haven't been -- are owed lots of money
2 here that has remained unpaid for a while. But I didn't see
3 this as a case where I had, like I had a confirmation
4 hearing where I literally had to rule by 10 a.m. the next
5 morning because there was Cayman proceeding going on. And
6 it was a multiday contested confirmation hearing. I did,
7 but I'm just saying to you -- and without a transcript,
8 actually -- it would have been nice to have one in that
9 circumstance, but sometimes we don't. I didn't view this as
10 that, but if it is, it is.

11 MR. QURESHI: It is not that, Your Honor.

12 THE COURT: Okay.

13 MR. QURESHI: Nothing further from me, Your Honor.

14 THE COURT: All right. I guess I'll ask Miss
15 Skipsey, did you have anything else you wanted to ask me?

16 MS. SKIPSEY: No, Your Honor. Thank you.

17 THE COURT: Ok, Mr. Plaza, anything you wanted to
18 ask?

19 MR. PLAZA: No, thank you, Your Honor.

20 THE COURT: Okay. Mr. Rudewicz, anything from
21 you?

22 MR. RUDEWICZ: Nothing from me, Your Honor, thank
23 you.

24 THE COURT: All right. Okay. Well I guess we
25 will look forward to seeing more information as it flows in.

1 If you have more questions, feel free to reach out to
2 Griselda. We'll obviously be looking to get more
3 information from you all, you know, starting end of next,
4 end of the week next week and, you know, flowing in
5 otherwise. And I look forward to seeing you all in person
6 on August the 28th.

7 MR. CLAREMAN: Thank you, Your Honor.

8 MR. QURESHI: Thank Your Honor.

9 THE COURT: All right. So for the record, court
10 is adjourned till 2 p.m. my next calendar, and you all may
11 be excused. And I wish you all a very good day.

12 (Whereupon these proceedings were concluded at
13 10:43 AM)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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Date: August 18, 2023